

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA

v.

RICHARD A. RYDZE (1)

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Criminal No. 12-262

OPINION AND ORDER

Presently before the Court is the government's Motion for Reconsideration of the Order issued January 11, 2016 Granting Videotaped Trial Depositions. Counsel for Defendant, Richard A. Rydze, has filed a Brief in Opposition to the government's motion.

Upon consideration of the government's motion we agree that Defendant has failed to demonstrate that the proposed deponents would be unavailable for trial or that their testimony is material. As one example, we have not set a trial date so it is premature to suppose that a witness will be unavailable when the witness has no knowledge of when his presence is required. The fact that the proposed witnesses are busy, successful health professionals is not a sufficient reason to presume they would be unavailable. This court has heard testimony from numerous busy, successful professionals in many criminal cases, and we do our best to accommodate their schedules. It is our opinion that in this case the unavailability of the proposed deponents to testify at trial has not been established.

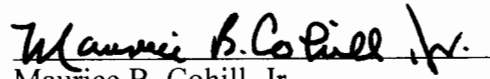
In addition, despite Defendant's allegations in his Brief in Opposition, we also agree that based on the pleadings related to the proposed deponents and the backgrounds of the proposed deponents that their testimony will be expert testimony. In that regard, we also believe that caution requires us to ensure that should these witnesses be called to offer expert testimony that the necessary rules are followed. To the extent that Defendant desires to call

any of the proposed health professional deponents as fact witnesses that avenue always remains open.

Accordingly, the following Order is hereby entered.

AND NOW, this 8th day of February, 2016, it is hereby ORDERED, ADJUDGED, and DECREED that the government's Motion for reconsideration of the Order issued January 11, 2016 Granting Videotaped Trial Depositions (ECF No. 186), be and hereby is GRANTED.

The Court's January 11, 2016 Order Granting Videotaped Trial Depositions is hereby VACATED.


Maurice B. Cohill, Jr.
Senior United States District Court Judge